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Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

First performance report of the International Tribunal for the Former Yugoslavia for the biennium 2002-2003

Report of the Secretary-General*

Summary

The first performance report of the International Tribunal for the Former Yugoslavia for the biennium 2002-2003 is submitted pursuant to General Assembly resolution 56/247 A of 24 December 2001. The report reflects a requirement for net additional appropriations of $13.1 million based upon adverse experience in respect of exchange rates ($4.4 million), inflation ($5.8 million) and standard costs ($3.3 million). Income is estimated to rise by $1 million. Provision is also sought for two additional trial teams at a cost of $0.6 million. The Assembly is requested to revise the appropriation for 2002-2003 and to approve the additional financing by utilizing the unencumbered balance available in the Special Account for the International Tribunal for the Former Yugoslavia.

* The delayed submission of the present report is due to the extensive consultation required for its finalization.

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I. Introduction

1. The General Assembly, in its resolution 56/247 A of 24 December 2001, requested the Secretary-General to submit, on an annual basis, a financial and programme performance report. Furthermore, in its resolution 56/247 B of 27 March 2002, the Assembly requested the Secretary-General to report to the Advisory Committee on Administrative and Budgetary Questions, in the annual performance report, on the impact of its decision not to approve the establishment of the trial team recommended by the Advisory Committee (see A/56/665, para. 36).

2. The present report also identifies adjustments required because of variations in the rates of inflation and exchange and in the standards assumed in the calculation of the initial appropriations. Moreover, in compliance with the recommendation contained in the report of the Advisory Committee (ibid., para. 13), this report includes performance information concerning benchmarks used to estimate resource requirements.

3. The budget for the biennium 2002-2003 (A/56/495 and Corr.1 and Add.1) was based on the assumption that the Tribunal would increase its trial capacity by 20 per cent following the appointment of the three remaining ad litem judges in 2002. Using the three courtrooms available, this would result in an increase from five to six active trial chambers, with six trials conducted concurrently, and the undertaking of 2,400 court sessions for the biennium.

4. Based on the experience acquired so far in 2002, it is projected that the total number of court sessions for the year will be 910, rather than 1,200 as previously estimated. This is due to a number of factors that are beyond the control of the Tribunal, including the following: (a) two of the three additional ad litem judges joined the Tribunal only in April, with the result that a maximum of only five trials could be carried out during the first three months of the year; (b) one case had to be adjourned during the period from 6 March to 15 April due to the illness of an ad litem judge; (c) an active trial was delayed due to the submission of new evidence at the last stage of the trial; (d) the Milosevic case was adjourned on two occasions, for two weeks in June due to the illness of the accused and two weeks in September in order to allow the prosecution and the defence to organize their presentation in connection with the Croatian and Bosnian components of the indictment; and (e) a case was adjourned for one month in August and another is anticipated to be adjourned for three weeks in October/November in order to allow the respective defence teams to prepare their cases following the completion of the prosecution's case.

5. The capacity of the Tribunal is currently fully utilized, with all work units dedicated to the principal goal of trial activity. One hundred per cent of trial capacity is now being used, with six active trial chambers and six trials being carried out concurrently. It is expected that the current pace of trial activity will be maintained throughout the remainder of the biennium.

6. An increase in net requirements of $13,053,300 are as follows (in thousands of United States dollars):

			Increase/decrease	
	Appropriation[a]	*Revised estimate*	*Amount*	*Percentage*
Expenditure	248 926.2	262 986.5	14 060.3	5.6
Income	25 910.8	26 917.8	1 007.0	3.9
Net requirements	**223 015.4**	**236 068.7**	**13 053.3**	**5.9**

[a] Approved in resolution 56/247 B.

7. The changes in requirements by organ are as follows (in thousands of United States dollars):

			Increase/decrease	
Expenditure	*Appropriation*[a]	*Revised estimate*	*Amount*	*Percentage*
A. Chambers	8 511.5	8 776.2	264.7	3.1
B. Office of the Prosecutor	76 802.2	82 223.5	5 421.3	7.1
C. Registry	163 612.5	171 986.8	8 374.3	5.1
Total expenditure (gross)	**248 926.2**	**262 986.5**	**14 060.3**	**5.6**
Income				
Staff assessment	25 756.4	26 763.4	1 007.0	3.9
Other	154.4	154.4	0.0	0.0
Total net requirements	**223 015.4**	**236 068.7**	**13 053.3**	**5.9**

[a] As approved in resolution 56/247 B.

8. An explanation of the variations in the costing parameters assumed in the calculation of the initial appropriations is set out in paragraphs 10 to 13 below. In addition, the following annexes are provided:

(a) Annex I contains the following schedules:

(i) Schedule 1: Summary of projected expenditures by Tribunal organ and main determining factors;

(ii) Schedule 2: Summary of projected expenditures by object of expenditure and main determining factors;

(b) Annex II contains the budgetary assumptions (costing parameters) used in the initial appropriation and the proposed revisions for the biennium 2002-2003;

(c) Annex III contains performance indicators;

(d) Annex IV contains a draft General Assembly resolution on the financing of the Tribunal.

II. Explanation of the changes in net expenditure requirements

9. The changes required as a result of the factors mentioned above would yield an increase of $14,060,300 in net expenditure requirements for a total revised appropriation of $262,986,500. Details are as follows (in thousands of United States dollars):

Appropriation[a]	248 926.2		
A. Variations in budgetary assumptions			
	Changes in exchange rates	4 408.6	Based on United Nations operational rates of exchange
	Changes in inflation assumptions	5 777.7	Based on consumer price indices, post adjustment multipliers promulgated and actual versus budgeted cost-of-living adjustments
	Adjustments to standard salary costs and common staff costs	3 282.5	Based on analysis of actual payroll data, vacancies, common staff costs, recommendations of the International Civil Service Commission and staff assessment provisions consequent upon consolidation of post adjustment
B. Other requirements		591.5	Based on projections for two additional trial teams
Revised total	**262 986.5**		

[a] As approved in resolution 56/247 B.

A. Variations in budgetary assumptions

Changes in exchange rates (*increase: $4,408,600*)

10. In the present performance report, the realized exchange rates were applied to the period from January to October 2002 and the October 2002 exchange rate was applied to the remainder of the year, with the same average rates of 2002 being applied for 2003. The increase of $4,408,600 is attributable mainly to the weakening of the dollar vis-à-vis the euro.

Changes in inflation assumptions (*increase: $5,777,700*)

11. The increase of $5,777,700 reflects revised projected inflation rates affecting all objects of expenditure in The Hague. These are based on actual post adjustment multipliers for the period from January to October 2002 and projections based on data used by the International Civil Service Commission as well as the latest information available on consumer price indices and actual versus budgeted cost-of-living adjustments. The higher increase in the Office of the Prosecutor ($2,197,800) reflects the higher ratio of Professional to General Service posts in that organ as compared with the Registry.

Adjustments to standard salary costs (*increase: $3,282,500*)

12. The increase of $3,282,500 reflects adjustments in the ratio of common staff costs to net salaries. Common staff costs are budgeted as a percentage of net

salaries. Expenditures under common staff costs relate to allowances and benefits and the appointment, transfer and separation of staff. Estimates contained in the proposed programme budget for the Tribunal for the biennium 2002-2003 were based on an assumed common staff cost rate of 31.55 per cent. In the present report, a rate of 35.4 per cent was applied on the basis of data for the biennium 2000-2001. The increase in the Office of the Prosecutor ($1,453,500) reflects, as mentioned above, the higher ratio of Professional to General Service posts in that organ.

B. Other requirements

Two additional trial teams (*increase: $591,500*)

13. The proposed budget for the biennium 2002-2003 included the establishment of two additional trial teams in the Prosecution Division, which would result in an increase in the total number of trial teams from 10 to 12. This proposal was based on the anticipated increase in the number of active trial chambers (from five to six) resulting from the addition of three ad litem judges, as well as in the number of cases to be prepared. Currently, the Tribunal utilizes six ad litem judges.

14. The Advisory Committee, in its report on the budget of the Tribunal for the biennium 2002-2003, recalled that when ad litem judges were approved, one additional trial team had already been approved (A/56/665, para. 36). Taking into account the resources approved for the Prosecution Division for 2001 and the additional resources recommended for approval for other staff costs for 2002-2003, the Committee recommended approval of only one additional trial team, composed of a senior trial attorney (P-5), two trial attorneys (co-counsel) (P-4), one legal officer (P-3), one case manager (General Service) and one trial support assistant (General Service). Furthermore, in the same report, the Committee recommended the approval of one trial support clerk (General Service) to strengthen the Trial Support Unit of the Prosecution Division (ibid., para. 38).

15. The General Assembly, in its resolution 56/247 B, approved the staffing table for the Tribunal for the biennium 2002-2003, as recommended by the Advisory Committee, except for the establishment of the additional trial team mentioned in the preceding paragraph. The Assembly further requested the Secretary-General to report to the Committee in the annual performance report on the impact of the exclusion of the trial team. In response to that request, the Tribunal reviewed its requirements in respect of trial teams needed to provide assistance to the Office of the Prosecutor in carrying out pre-trial activities and trial preparations.

16. In order to ensure the effective use of the ad litem judges, it is important that the Office of the Prosecutor keep up with the pace and schedule of the trial chambers. Thus, for each trial chamber, two trial teams would be necessary in order for the Office of the Prosecutor to be ready to go to trial without lengthy delays between adjournments. Under such an arrangement, while six teams would be in trial at any one time, the other six teams would be dealing with all the pre-trial preparation work and would stand ready to proceed to trial in any of the six trial chambers immediately after a case is completed.

17. The Tribunal has 10 trial teams currently available. Of those, seven are involved in ongoing trials, including two that are assigned solely to the Milosevic case: one handling the Croatian part of the indictment and the other handling the

Bosnian part. The remaining three trial teams are fully engaged in the preparation of the 18 cases in the pre-trial phase. The amount of work required in such preparations differs from case to case, but the cases are generally complex and time-consuming, as many different factors come into play, including such considerations as when the initial indictment was confirmed, how many accused are in custody on the same indictment, the type of case, the size of the case, the number of charges and the level of the accused.

18. While the number of ongoing trials is necessarily limited, pre-trial cases have no limitation. According to the rules of evidence and procedure, following the arrest or surrender of each accused person, the Prosecutor must immediately begin trial preparations, even though it may take several months for the trial to commence. The tasks involved are numerous and include reviewing the entire evidence collection, filing and replying to legal motions, periodically listing cases before the trial chamber for status conferences, identifying new information, material and evidence received since the confirmation of the indictment, identifying and disclosing any new material that is exculpatory to the accused and defence lawyers, conducting research and so on.

19. The ability of the Office of the Prosecutor to cope with the workload has been facilitated in part by the delays caused by the factors set out in paragraph 4 above. Nevertheless, a high level of stress is already being felt among the staff of the trial teams, with a consequential detrimental effect on their mental and physical well-being. Given that all of the ad litem judges are currently on board and fully engaged in the discharge of their functions, the ability of the Office of the Prosecutor to comply with court deadlines and meet the trial schedule will be seriously compromised in the near future. This would necessarily jeopardize the Tribunal's ability to adhere to its proposed completion strategy. Accordingly, it is requested that, as a minimum, two additional trial teams be established in that office in 2003.

20. Each trial team would be composed of one senior trial attorney at the P-5 level, two trial attorneys (co-counsel) at the P-4 level, one legal officer at the P-3 level and three General Service (Other level) support posts. The Tribunal has already identified one P-5 post that could be redeployed from the Investigations Division. Accordingly, additional provisions would need to be included in the budget to provide for the establishment of 13 new temporary posts, as follows: one P-5, four P-4, two P-3, and six General Service (Other level). In accordance with procedures followed in 2002-2003, which require the application of a vacancy rate of 50 per cent for new Professional posts and 40 per cent for new General Service posts, additional requirements amounting to $591,500 would be needed in 2003. The proposed budget for the Tribunal for the biennium 2004-2005 would continue the additional 13 posts on a full-cost basis for which continuing resources of $2,222,400 would be required.

III. Financing of the Tribunal

21. It is noted that there is an unencumbered balance of $16,371,000 in the Special Account for the International Tribunal for the Former Yugoslavia,[1] which can be used to finance the additional requirements of $14,060,300 proposed in the present report.

22. Similarly, the unassessed expenditures in the amount of $413,600, relating to 2001 (see A/57/367, para. 33) could also be financed from the unencumbered balance referred to above. This financing arrangement has been delineated in the draft resolution contained in annex IV.

IV. Conclusion

23. **The General Assembly may wish to: (a) take note of the present report; and (b) consider adopting the draft resolution contained in annex IV to revise the appropriation for the biennium 2002-2003 to take into account additional requirements arising from the recosting and the need for two additional trial teams.**

Notes

[1] See *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 5L* and corrigendum (A/57/5/Add.12 and Corr.1), chap. V, statement II.

Annex I

Schedules

Schedule 1

Summary of projected expenditures by Tribunal organ and main determining factors

(Thousands of United States dollars)

		Projected changes					
Object of expenditure	*2002-2003 appropriation*[a]	*Exchange rate*	*Inflation*	*Standards*	*Other changes*	*Total*	*Proposed revised appropriation*
Chambers	8 511.5	169.0	95.7	.0	.0	264.7	8 776.2
Office of the Prosecutor	76 802.2	1 178.5	2 197.8	1 453.5	591.5	5 421.3	82 223.5
Registry	163 612.5	3 061.1	3 484.2	1 829.0	.0	8 374.3	171 986.8
Total	**248 926.2**	**4 408.6**	**5 777.7**	**3 282.5**	**591.5**	**14 060.3**	**262 986.5**

[a] As approved in resolution 56/247 B.

Schedule 2

Summary of projected expenditures by object of expenditure and main determining factors

(Thousands of United States dollars)

		Projected changes					
Object of expenditure	*2002-2003 appropriation*[a]	*Exchange rate*	*Inflation*	*Standards*	*Other changes*	*Total*	*Proposed revised appropriation*
Posts	106 803.6	2 125.6	3 847.2	3 282.5	478.0	9 733.3	116 536.9
Other staff costs	24 158.8	486.0	275.9	-	0.0	761.9	24 920.7
Non-staff compensation	587.4	11.8	6.6	0.0	0.0	18.4	605.8
Consultants and experts	509.8	10.3	5.8	0.0	0.0	16.1	525.9
Travel	11 065.9	0.0	0.0	0.0	0.0	0.0	11 065.9
Contractual services	50 805.2	1 021.6	580.2	0.0	0.0	1 601.8	52 407.0
General operating expenses	18 881.1	379.7	215.6	0.0	0.0	595.3	19 476.4
Hospitality	9.8	0.2	0.2	0.0	0.0	0.4	10.2
Supplies and materials	2 832.0	56.8	32.2	0.0	0.0	89.0	2 921.0
Furniture and equipment	7 060.7	142.0	80.8	0.0	0.0	222.8	7 283.5
Improvement of premises	262.3	5.3	2.9	0.0	0.0	8.2	270.5
Grants and contributions	193.2	3.9	2.2	0.0	0.0	6.1	199.3
Other	25 756.4	165.4	728.1	0.0	113.5	1 007.0	26 763.4
Total	**248 926.2**	**4 408.6**	**5 777.7**	**3 282.5**	**591.5**	**14 060.3**	**262 986.5**

[a] As approved in resolution 56/247 B.

Annex II

Budgetary assumptions for the International Tribunal for the Former Yugoslavia for the biennium 2002-2003

	Initial estimates		*Proposed estimates*	
Budget parameters	*2002*	*2003*	*2002*	*2003*
Rate of exchange (US$ 1: €)	1.099	1.099	1.076	1.076
Inflation rate (percentage)	2.3	2.4	3.4	2.3
Post adjustment multiplier (percentage)	5.98	7.68	9.9	11.6
Common staff costs rate (percentage)	31.55	31.55	35.4	35.4
Vacancy rates for continuing posts				
Professional category and above (percentage)	6.5	6.5	6.5	6.5
General Service and related categories (percentage)	5	5	5	5
Vacancy rates for new posts				
Professional category and above (percentage)	50	50	50	50
General Service and related categories (percentage)	40	40	40	40

Annex III

Performance indicators for the biennium 2002-2003

	2001 actual	*2002-2003 estimates*	*2002 actual*[a]
Chambers			
Ongoing pre-trial cases	11	26	18
Accused on trial (average)	17	21	12
Appeals (average)	6	74	40
Court sessions	754	2 400	607
Plenary days	8	20	2
Documents filed (pages)	96 271	240 000	79 846
Documents filed (pages, Chambers)	5 477	19 000	4 110
Pages of transcript	73 579	360 000	289 188
Office of the Prosecutor			
Prosecution Division			
Motions/applications/responses	472	900	498
Trials under preparation (average)	11	26	18
Investigations Division			
Number of investigations (average)	39	84	45
Witnesses interviewed	3 946	6 500	2 194
Search warrants obtained	5	3	28
Requests for assistance in	923	1 400	493
Requests for assistance out	1 247	2 400	725
Leadership research team			
Reports prepared	253	400	129
Military analysis team			
Reports prepared	821	1 200	797
Fugitive Intelligence and Sensitive Sources Unit			
Intelligence contacts	308	650	195
Information and Evidence Section			
Document pages held in the evidence collection (millions)	2 976	7 128	3 325
Documentary videos held in the evidence collection (average)	4 458	10 500	5 995
Registry			
Press and information			
Press contacts	154 500	95 000	58 100
Number of visiting groups (universities, law societies, etc.)	172	420	157
Number of visitors (universities, law societies, etc.)	3 467	11 500	3 788
Internet home page queries (thousands)	2 230	6 100	6 526

	2001 actual	2002-2003 estimates	2002 actual[a]
Judicial Support Division			
Detention Unit			
Detainees (average)	36	120	55
Detainees transported	965	4 952	982
Visitor-hours	18 044	57 380	12 628
Telephone calls monitored	36 545	112 236	27 148
Office of Legal Aid and Detention Matters			
Defence team members (average)	166	385	211
Detainee visit permit applications	617	1 570	830
Library and Reference Unit			
Size of collection (average)	5 605	16 000	6 500
Search requests	5 100	12 800	3 550
Legal database hours	1 980	5 500	1 000
Witness and Victims Support Section			
Witnesses, support persons and other dependants	472	1 852	504
Expert witnesses	21	30	23
Witness-days	3 433	15 056	4 724
Relocation requests	14	68	23
Witnesses with additional protective measures	178	596	120
Witnesses with additional support needs	223	300	176
Registry Legal Advisory Section			
Contracts reviewed	38	70	25
Research projects	19	32	26
International agreements negotiated	20	30	13
Administration Division			
Human Resources Section			
Staffing table (assessed budget)	968	2 200	1 052
Other personnel	314	1 200	327
Applications received/screened	11 547	22 000	6 149
Offers of appointment	318	1 100	351
Special service agreement contracts	786	2 000	355
Finance Section			
Payroll, regular, extrabudgetary and project staff (per month)	1 179	1 450	1 268
Invoices/claims processed (per month)	1 583	1 750	1 735
Payments issued by Cashier's Office (per month)	2 402	2 750	2 579
General Services Section			
Work orders completed	10 227	16 928	4 443
Receiving and inspection reports processed	858	1 920	367
Reproduction requests (pages)	3 999	6 120	2 135

	2001 actual	2002-2003 estimates	2002 actual*
Protocol (visa/identity card applications)	4 563	8 800	3 522
Vehicle fleet	141	256	130
Travel			
Authorizations, PT-8s raised	6 857	15 452	5 568
Archiving Unit			
Records transferred (metres)	168	168	86
Requests for information	276	480	351
Procurement Section			
Purchase orders issued	1 026	2 240	562
Information Technology and Support Services Section			
Local area network support requests	9 645	19 787	6 069
Help desk support requests	48 951	118 955	14 232
Audio-visual support requests	2 893	6 014	1 993
Communication support requests	4 197	9 193	18 659
Language and Conference Services Section			
Pages translated (per year)	84 868	260 500	75 145
Conference interpreter-days		4 000	1 557
Field interpreter-days	3 919	7 400	1 428
Verbatim reporting			
French (reporter-days)	2 523	7 952	2 471
English (team-days)	453	1 978	600
Security and Safety Section			
Personnel screened upon entering building	552 976	852 000	403 120
Parcels inspected and X-rayed	99 392	156 000	64 894
Visitor badges issued	15 008	36 600	15 500

* As at 31 August.

Annex IV

Draft resolution

Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

The General Assembly,

Taking note of the financial performance report of the Secretary-General on the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 for the period from 1 January to 31 December 2001,[1] the first performance report of the Tribunal for the biennium 2002-2003,[2] and the related reports of the Advisory Committee on Administrative and Budgetary Questions,[3]

Recalling its resolutions 56/247 A of 24 December 2001 and 56/247 B of 27 March 2002 on the financing of the Tribunal for the biennium 2002-2003,

1. *Endorses* the conclusions and recommendations contained in the reports of the Advisory Committee on Administrative and Budgetary Questions;[3]

2. *Takes note* of the utilization of the commitment authority authorized in its resolution 55/225 B of 12 April 2001;

3. *Decides* that the financing for the unassessed expenditures incurred in 2001, in the amount of 413,600 United States dollars, will be drawn from the unencumbered balance available in the Special Account for the International Tribunal for the Former Yugoslavia;

4. *Decides* on a revised appropriation for the Special Account of a total amount of 262,986,500 dollars gross (236,068,700 dollars net) for the biennium 2002-2003;

5. *Decides* that the increases resulting from the recosting and the establishment of two additional trial teams, in the amount of 14,060,300 dollars gross (13,053,300 dollars net), will be drawn from the unencumbered balance available in the Special Account as at 31 December 2001;

6. *Also decides* to apportion for the year 2003 the amount of 64,275,950 dollars gross (58,066,375 dollars net) among Member States in accordance with the scale of assessments applicable to the regular budget of the United Nations for the biennium 2002-2003, as set out in its resolution 55/5 B of 23 December 2000;

7. *Further decides* to apportion for the year 2003 the amount of 64,275,950 dollars gross (58,066,375 dollars net) among Member States in accordance with the rates of assessment applicable to peacekeeping operations for 2003;

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[1] A/57/367.

[2] A/57/480.

[3] A/57/___ and A/57/___.

8. *Decides* that, in accordance with the provisions of its resolution 973 (X) of 15 December 1955, there shall be set off against the apportionment among Member States, as provided for in paragraphs 6 and 7 above, their respective share in the Tax Equalization Fund in the amount of 13,426,150 dollars, being the balance of the estimated staff assessment income approved for the International Tribunal for the Former Yugoslavia for the biennium 2002-2003.

Annex

Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

	Gross	*Net*
	(United States dollars)	
Appropriation for 2002-2003[a]	248 926 200	223 169 800
Projected changes for 2002-2003 (revised parameters/standards and requirements for two additional trial teams)	14 060 300	13 053 300
Proposed revised appropriation for 2002-2003	**262 986 500**	**236 223 100**
Unassessed expenditures in 2001[b]	413 600	-
Total amount to be financed	**263 400 100**	**236 223 100**
Amount to be financed from the unencumbered balance as at 31 December 2001 (the sum of $14,060,300 and $413,600)	(14 473 900)	(13 053 300)
Balance to be assessed for 2002-2003	**248 926 200**	**223 169 800**
Assessment for 2002	(120 374 300)	(107 037 050)
Balance to be assessed for 2003.	**128 551 900**	**116 132 750**
Of which:		
Contributions assessed on Member States in accordance with the scale of assessments applicable to the regular budget of the United Nations for 2002-2003	64 275 950	58 066 375
Contributions assessed on Member States in accordance with the scale of assessments applicable to peacekeeping operations for 2002-2003	64 275 950	58 066 375

[a] As approved by the General Assembly in its resolution 56/247 B.

[b] See A/57/367, para. 33.